IN THE HIGH COURT OF UTTARANCHAL AT NANINTAL

WRIT PETITION NO. 347 (SS) OF 2005

1. Rajveer Singh, S/o Sri Puran Singh working as Assistant Teacher Primary School Saur Vikas Khand, Betalghat, District Nainital.
2. Dharam Singh, S/o Puran Singh Presently working as Assistant Teacher in Primary School Sigri Ghughu Vikas Khand Kotabagh, District Nainital.
3. Ramesh Chandra, S/o Sri Dhyan Singh presently working at Primary School Loshjani Ramgarh, District Nainital.

.....Petitioners.

Versus

1. Joint Director Education, Nainital.
2. Basic Shiksha Adhikari Udham Singh Nagar.
3. Basic Shiksha Adhikari Nainital. .....Respondents.

Sri S.S.Yadav, Advocate for the petitioner.
Learned Standing Counsel for the State.

Dated:27.02.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 7th March, 2005 (Annexure No. 3) regarding the petitioners no. 2, 3 and 5. Further a writ of mandamus has been prayed for relieving the petitioner for District Udham Singh Nagar by preparing the list of option as immediate as possible.

2. Brief facts giving rise to the present writ petition are that the petitioners were appointed as Assistant Teacher in Primary and Junior High Schools prior to bifurcation of District Udham Singh Nagar and Nainital. Their parent District was Naintial but for the better administration and facilitation of all aspect of the

district, it was decided and the District Udham Singh Nagar was formulated.

3. Authorities concerned required the option for the petitioners and in pursuance of the same, the petitioners opted for Udham Singh Nagar on 18.02.2005. The same is marked as Annexure No. 2 to the writ petition.

4. The grievance of the petitioners is that inspite of the option having been given for Udham Singh Nagar, the Petitioners have not been accommodated, when in point of fact, as will appear from the order dated 7th February, 2004, the posts are still lying vacant.

5. The endorsement to that effect is quoted below:-

''याचियों द्वारा अपने प्रत्यावेदनों में यह कहा गया कि उनकी नियुक्ति जनपद नैनीताल में हुयी थी तथा जनपद उधमसिंहनगर का सृजन होने पर विभाग द्वारा मांगे गये विकल्प के क्रम में उनके द्वारा जनपद उधमसिंहनगर हेतु विकल्प दिया गया है । तथा वर्तमान में अपर जिला िक्षा अधिकारी (बे0) उधमसिंहनगर द्वारा दी गयी रिक्ति की सूचना के आधार पर जनपद उधमसिंहनगर में सहायक अध्यापक के पद रिक्त है ।''

6. Earlier the petitioners have moved a writ petition 122 (ss) of 2005, which was decided on 14th February, 205 and the following direction was made:-

"In view of the aforesaid facts, I direct the Joint Director of Education (Basic) Kumaon Division, Nainital, if he is holding the charge of Basic Schools and in case he is not holding the charge of the Basic Schools, the authority who is In-charge of the Basic Schools of the Region, shall decide the representation moved by the petitioners within a period of four seeks from the date of receipt of a certified copy of this order. The petitioners are directed to place the coy of this order along with their representation before the Joint Director of Education Basic Kuamon Region, Nainital/In-charge

Regional Basic Schools Kumaon Mandal within two weeks from today."

7. In Writ Petition No. 837 of 2004 which was decided on 23rd July, 2004, similar order has been passed to the following effect:-

"*In view of the aforesaid facts, I direct the Joint Director of Education (Basic) Kumaon Division, Nainital, if he is holding the charge of Basic Schools and in case he is not holding the charge of the Basic Schools, the authority who is In-charge of the Basic Schools of the Region, Shall decide the representation moved by the petitioner within a period of four weeks from the date of receipt of a certified copy of this order. The petitioners are directed to place the copy of the order along with their representation before the Joint Director of Education Basic Kumaon Region, Nainital/In-charge Regional Basic Schools, Kumaon Mandal within two weeks from today.*"

8. Liberty is given to the petitioners to file a fresh representation before the authority concerned stating his grievances and bringing to the notice of the authorities concerned the options made on 18th February, 2005

9. If the options have been made in proper way and it fulfills all the conditions, the respondents are directed to relieve the petitioner in accordance with the options given by them and pass appropriate order within a period of six weeks from the date of presentation of the certified copy of the order.

10. Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

27.02.2006
Rathour